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Commissioner for Patents

Serial No. 09/933,798

REMARKS / ARGUMENTS

Claims 1, 4, and 6 to 10 are pending in the application following the present amendment.

This is a response to a Final Action. The present amendment follows a telephone interview with Examiner Ula C. Ruddock on March 29, 2005, which is gratefully acknowledged by the applicant.

In the Office Action, the Examiner rejected claims 1-7 and 10 under 35 U.S.C. 102(e) as being anticipated by Heifetz (US Patent Application 2003/0054127). Claim 1 is amended to specifically distinguish from Heifetz. For instance claim 1 defines *"a support sheet layer made of a porous material and having a first and second surface with the first surface directly adhered to the second side of the middle layer by means of the waterproofing material transuding partially into the pores of the support sheet"*. Furthermore the middle layer of waterproofing material is specified to be "bitumen based". Heifetz does not present a support sheet layer "directly adhered" to a layer of bituminous based waterproofing material. The remaining claims are dependent from claim 1.

The Examiner also rejected claims 1, 3-7, 9 and 10 under 35 U.S.C. 102 (b) as being anticipated by EP 0315239 (EP '239). As discussed during the telephone interview with the Examiner, the main teaching of EP '239 is an improved bituminous composition. EP '239 does not teach a three layer waterproofing membrane as described in claim 1. Careful study of EP '239 shows that the only reference to a waterproofing sheath is in Example 10, at page 6 lines 40 and following. More particularly, at lines 51 and 52, one finds: *"In the preparation of the sheaths, the conventional technique of impregnation of the support with the composition in the molten state, followed by a sudden quenching inside a water bath, is used."* This process is in fact well known in the art, and produces a membrane with the "support" enveloped by the bituminous composition layer. As discussed during the interview, the sheath referred to in EP '239 is thus made by conventional processes such as dipping the support in a

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molten bath of bitumen composition, which are not applicable to the layer configuration of the present invention.

The Examiner also rejected claim 8 under 35 U.S.C. 103(a) as being unpatentable over EP '239. Applicant respectfully submits this rejection is obviated on basis of the arguments presented above since claim 8 is dependent from claim 1.

As it will be noted, the present Amendment to the Claims does not incorporate any new matter into the specification. For instance, the thickness limitation in claim 1 was present in original claim 5, now cancelled, and the subject matter relating to the transudation of waterproofing material and adhesive into the support sheet found in claim 1, was present at the end of paragraph 27 of the specification as filed.

Favorable consideration of the Claims as amended is respectfully requested. It is noted that the Examiner agreed that the amendments would overcome the rejection on the basis of the art of record.

For the reasons described above, the application is believed to be in condition for allowance. Early and favourable action would be appreciated.

Respectfully,

Denis FAUCHER

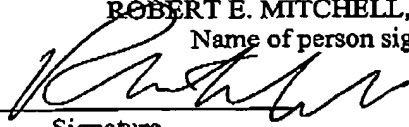
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